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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

JAMIE YOUNG, on behalf of herself and all  
others similarly situated,

Plaintiff,

v.

BANK OF AMERICA, N.A.,

Defendant.

Case No. 4:19-cv-3867-JST

**STIPULATION AND [PROPOSED] ORDER  
TO ADJOURN CASE MANAGEMENT  
CONFERENCE, VACATE CASE  
MANAGEMENT STATEMENT  
DEADLINE, AND STAY CASE PENDING  
DECISION IN *FACEBOOK, INC. V.  
DUGUID*, NO. 19-511 (S. CT.)**

Judge: Hon. Jon S. Tigar

1 Plaintiff Jamie Young and Defendant Bank of America, N.A. (herein, “Parties”) jointly  
 2 and respectfully agree and request that the Court adjourn the currently scheduled case management  
 3 conference, vacate the case management statement deadline, and stay this matter for a limited time  
 4 until the pending Petition for Writ of Certiorari is resolved in *Facebook, Inc. v. Duguid*, No. 19-  
 5 511 (S. Ct.).<sup>1</sup> The Parties will notify this Court within seven (7) days of the Supreme Court’s  
 6 decision to grant, deny, hold in abeyance, or otherwise dispose of Facebook’s currently pending  
 7 Petition for Writ of Certiorari in the *Duguid* matter, pursuant to the stipulation set forth below.

8 On January 10, 2020, the Supreme Court granted review of the certiorari petition in *Barr*  
 9 *v. American Association of Political Consultants, Inc.* (AAPC), No. 19-631 (S. Ct.), [https://](https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-631.html)  
 10 [www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-631.html](https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-631.html). In  
 11 AAPC, the Supreme Court will decide “[w]hether the government-debt exception to the TCPA’s  
 12 automated-call restriction violates the First Amendment, and whether the proper remedy for any  
 13 constitutional violation is to sever the exception from the remainder of the statute.” AAPC, No.  
 14 19-631 (S. Ct.), Question Presented, <https://www.supremecourt.gov/qp/19-00631qp.pdf>. The  
 15 Supreme Court is expected to issue its decision in AAPC no later than June of 2020.

16 In addition to AAPC, pending before the Supreme Court is a certiorari petition in the  
 17 *Facebook, Inc. v. Duguid* case that presents the same constitutionality question, as well as a  
 18 question about the statutory meaning of the TCPA’s automated call-restriction; specifically, the  
 19 proper interpretation of “automatic telephone dialing system.” *Facebook v. Duguid*, No. 19-511.  
 20 The Supreme Court first considered the *Facebook v. Duguid* petition at its conference on January  
 21 24, 2020, but has not yet announced its decision as to the petition.

22 Given that the Supreme Court’s resolution of *Facebook, Inc. v. Duguid* may affect this  
 23 case, the Parties agree that adjourning the case management conference, vacating the case  
 24 management statement deadline, and staying the matter pending the resolution of the certiorari  
 25 petition in *Duguid* will conserve judicial resources and avoid needless expenses. The Parties thus  
 26 **STIPULATE** that:

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27 <sup>1</sup> The docket for *Facebook, Inc. v. Duguid*, No. 19-511 (S. Ct.) is publicly available at  
 28 [https://www.supremecourt.gov/search.aspx?filename=/docket](https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-511.html)  
[/docketfiles/html/public/19-511.html](https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-511.html).

- 1           1.     The proposed limited stay until the Supreme Court issues an order granting,  
2                 denying, holding in abeyance, or otherwise disposing of the pending certiorari  
3                 petition in *Facebook, Inc. v. Duguid*, is appropriate, will not prejudice either party,  
4                 will conserve judicial resources, and will best serve the orderly course of justice;
- 5           2.     The following dates should be vacated: (i) the case management conference  
6                 scheduled for April 7, 2020, and (ii) the case management statement deadline of  
7                 March 31, 2020;
- 8           3.     If the Supreme Court denies the pending certiorari petition in *Facebook v. Duguid*,  
9                 the Parties stipulate that within seven (7) days of that denial, they will file a Joint  
10                Case Management Conference Statement and request that a Case Management  
11                Conference be set expeditiously, and that the current stay will last until the Court  
12                holds the Case Management Conference;<sup>2</sup>
- 13          4.     If the Supreme Court grants the pending certiorari petition in *Facebook v. Duguid*,  
14                 the Parties stipulate that this litigation should remain stayed pending a decision on  
15                 the merits by the Supreme Court and will so notify this Court within seven (7) days  
16                 of a grant of certiorari, and further agree that they will alert this Court within seven  
17                 (7) days of a ruling by the Supreme Court on the merits via a Joint Report outlining  
18                 the Parties' positions in light of that decision;
- 19          5.     If the Supreme Court does not grant or deny, but holds in abeyance or otherwise  
20                 disposes of the pending certiorari petition in *Facebook v. Duguid*, the Parties will  
21                 notify this Court via a Joint Report within seven (7) days of such a decision, and  
22                 will include in that report a proposal for next steps in this case.

23           **IT IS SO STIPULATED.**

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27     <sup>2</sup> Defendant notes that it reserves its right to renew its request for a stay of litigation in light of  
28     the Supreme Court's consideration of *Barr v. AAPC* should the Supreme Court deny the pending  
   certiorari petition in *Facebook v. Duguid*. Plaintiff does not believe the Supreme Court's  
   consideration of *Barr v. AAPC* alone merits a stay of litigation in the present case.

1  
2  
3 Dated: March 31, 2020

Respectfully submitted,

**TYCKO AND ZAVAREEI LLP**

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*Attorneys for Plaintiff*

21 Dated: March 31, 2020

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*Attorneys for Defendant*

**ATTESTATION**

In compliance with Local Rule 5-1(i)(3), I attest that I am the ECF user whose identification and password is being used to file this Stipulation and [Proposed] Order to Adjourn Case Management Conference, Vacate Case Management Statement Deadline, and Stay Case Pending Decision in *Facebook, Inc. v. Duguid*, No. 19-511 (S. Ct.), and that all signatories on whose behalf this filing is submitted concur in its content and have authorized its filing.

Dated: March 31, 2020

/s/ Annick M. Persinger

Annick M. Persinger